

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EDSON FERREIRA-DE SA, #55250-180,)	
Petitioner,)	
)	
v.)	3:07-CV-0693-B
)	ECF
UNITED STATES OF AMERICA,)	
Respondent.)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the Court in implementation thereof, this cause has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

Type of Case: This case was filed by Petitioner Edson Ferreira-De Sa while confined as a federal prisoner at the McRae Correctional Institution in McRae, Georgia. His current whereabouts are unknown.

Findings and Conclusions: Due to the nature of the pleadings which appeared to be referring to a sentence imposed in the Western District of Texas, on April 24, 2007, the Magistrate Judge issued a questionnaire to Petitioner to determine what basis, if any, this Court had jurisdiction over his claim. A copy of the questionnaire was mailed to Petitioner at the McRae Institution. On May 4, 2007, the questionnaire was returned to the Court with the notation return to sender, "not at this facility." (Docket #6). As of the date of this recommendation, Petitioner has failed to notify the Court of his change of address. The Court is

not required to delay disposition of the current case until such time as Petitioner chooses to provide an address to which the Court can send its orders.

Rule 41(b), of the Federal Rules of Civil Procedure, allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998); *McCullough v. Lynaugh*, 835 F.2d 1126, 1127(5th Cir. 1988). “This authority [under Rule 41(b)] flows from the court's inherent power to control its docket and prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins. Co., Ltd.*, 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962)).

Therefore, this case should be dismissed without prejudice for want of prosecution. *See* Fed. R. Civ. 41(b) (an involuntary dismissal “operates as an adjudication on the merits,” unless otherwise specified); *Callip v. Harris County Child Welfare Department*, 757 F.2d 1513, 1519 (5th Cir. 1985) (setting out higher standard for dismissals with prejudice for want of prosecution).

RECOMMENDATION:

For the foregoing reasons, it is recommended that the petition be DISMISSED without prejudice for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b), and that the motion for leave to proceed *in forma pauperis* be DENIED as moot.

A copy of this recommendation will be mailed to Petitioner's last known address.

Signed this 24th day of May, 2007.

A handwritten signature in black ink that reads "Wm. F. Sanderson, Jr." The signature is written in a cursive, slightly slanted style.

WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.